

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHERYL MANDELL,
Plaintiff,
v.
MET LIFE, et al.,
Defendants.

3:10-CV-0215-RCJ (VPC)

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE**

This report and recommendation is made to the Honorable Robert C. Jones, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

On April 14, 2010, plaintiff submitted an application for leave to proceed *in forma pauperis* (#1). Upon review of the application, the court found that plaintiff's declaration was insufficient for the court to rule on the application (#3). Plaintiff was ordered to complete a new application to proceed *in forma pauperis* and file it with the clerk on or before June 18, 2010. *Id.*

Plaintiff filed a second application to proceed *in forma pauperis* (#7) as ordered; however, she continued to fail to state the amount of her monthly income and other assets (#8). For example, plaintiff stated that she received a monthly check from PERS, but failed to list the amount of the monthly check as required (#7). Plaintiff stated that she takes monies from her CD, but failed to list the amount of her CD. *Id.* Plaintiff refused to list her interest in real estate, automobiles, or other property because it is "under litigation." *Id.* Plaintiff answered both "yes" and "no" when asked, "Have you placed any property, assets, or money in the name or custody of anyone else in the last two years?" *Id.*

1 Plaintiff was given a final opportunity by the court to fully complete an application to proceed
2 *in forma pauperis* and file it with the clerk or to pay the full \$350.00 filing fee by August 6, 2010 (#8).
3 Plaintiff was cautioned that failure to do so would result in a recommendation to the District Court to
4 deny the motion to proceed *in forma pauperis* and to dismiss the complaint. *Id.*

5 To date, plaintiff has failed to file any response to the court's order (#8) and has failed to pay
6 the filing fee. Based upon the foregoing, the undersigned magistrate judge recommends that the
7 applications to proceed *in forma pauperis* (#1 & #7) be denied and this action be dismissed without
8 prejudice.

9 The parties should be aware of the following:

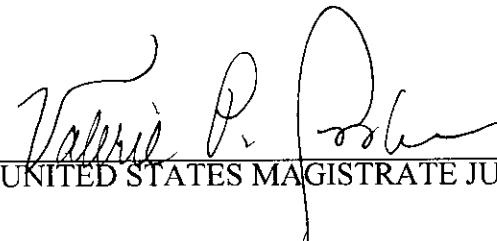
10 1. They may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules
11 of Practice, specific written objections to this Report and Recommendation within fourteen (14) days
12 of receipt. These objections should be titled "Objections to Magistrate Judge's Report and
13 Recommendation" and should be accompanied by points and authorities for consideration by the
14 District Court.

15 2. This Report and Recommendation is not an appealable order, and any notice of appeal
16 pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court's
17 judgment.

18 **RECOMMENDATION**

19 For the reasons stated above, the undersigned Magistrate Judge recommends that the District
20 Court enter an order **DENYING** plaintiff's applications to proceed *in forma pauperis* (#1 and #7) and
21 **DISMISSING** this action without prejudice.

22 DATED: December 15, 2010.

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25 UNITED STATES MAGISTRATE JUDGE
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